

## Justin Gelfand

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**From:** Davis, John (USAMOE) <John.Davis5@usdoj.gov>  
**Sent:** Friday, May 15, 2015 6:09 PM  
**To:** Justin Gelfand  
**Cc:** William S. Margulis; Arthur S. Margulis  
**Subject:** plea offer

Justin, Bill and Art

It has almost always been the government's position that if Thomas Anderson, Jr. wished to plead guilty we would attempt to fashion a plea agreement whereby he would receive a 120 month sentence based on a base offense Level 30 for the amount of marijuana for which he is responsible. (1000 to 3000 kilograms) However, it has also been the government's position that if Mr. Anderson were convicted at trial or wished to plead and have a sentencing hearing to determine the sentence, the following adjustments would be appropriate:

Plus 2 levels pursuant to 2D1.1(b)(1) for the firearms taken during the search of the Concord residence and the firearm retrieved from the door of Mr. Anderson's vehicle. There is also ample testimonial evidence of Mr. Anderson's propensity for carrying firearms and, at least once, displaying one in a threatening manner to a rival drug trafficker.

Plus 2 levels pursuant to 2D1.1(b)(2) for use of violence or for having directed the use of violence during the assault of Kyle Kienstra in the California hotel about which testimony was adduced at the pre-trial detention hearings.

Plus 4 levels pursuant to 3B1.1(a) for his aggravating role as organizer and leader of a criminal activity that involved five or more participants.

Plus 2 levels pursuant to 2D1.1(b)(15)(E) for having had an aggravating role in the offense and having committed the offense as part of a pattern of criminal conduct engaged in as a livelihood. It is my understanding that Mr. Anderson has never filed a tax return.

I certainly understand there is room for argument as to these adjustments. However, if applied in whole, Mr. Anderson would be at level 40 with a 292 to 365 month range. This does not take into account the money laundering count which quite likely would add another 2 levels resulting in level 42 and a 360-life range.

Please be advised, should Mr. Anderson wish to plead guilty to Count I of the indictment and receive a 120 month sentence, the government is willing to prepare such a plea agreement and dismiss Count II. The plea agreement will also contain a detailed appellate waiver of matters you wish to contest in your motion to dismiss including ineffective assistance of counsel. **The government's offer to structure a 120 month plea agreement will expire Thursday, May 21, 2015.** After that date the government will begin to prepare the matter for trial and not revisit a negotiated plea.

John

